



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2015-0425; FRL-9952-27-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Control of Air Pollution from Motor Vehicles, Vehicle Inspection and Maintenance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP). The revisions to the SIP were submitted in 2015. These revisions are related to the implementation of the state's motor vehicle emissions Inspection and Maintenance (I/M) Program. The EPA is approving these revisions pursuant to the Clean Air Act (CAA).

DATES: This rule will be effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice unless EPA receives relevant adverse comments by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives such comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2015-0425, at <http://www.regulations.gov> or via email to walsen.john@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions

(audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact John Walser, 214-665-7128, walser.john@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Mr. John Walser (6PD-L), (214) 665-7128, walser.john@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us,” and “our” means EPA.

I. Background

A. What is a SIP?

Section 110 of the CAA requires states to develop air pollution regulations and control strategies to ensure that air quality meets the National Ambient Air Quality Standards (NAAQS) established by EPA. The NAAQS are established under section 109 of the CAA and currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate

matter, and sulfur dioxide. A SIP is a set of air pollution regulations, control strategies, other means or techniques, and technical analyses developed by the state, to ensure that air quality in the state meets the NAAQS. It is required by section 110 and other provisions of the CAA. A SIP protects air quality primarily by addressing air pollution at its point of origin. SIPs can be extensive, containing state regulations or other enforceable documents, and supporting information such as city and county ordinances, monitoring networks, and modeling demonstrations. Each state must submit any SIP revision to EPA for approval and incorporation into the federally-enforceable SIP.

The Texas SIP includes a variety of control strategies, including the regulations that outline requirements for the motor vehicle I/M program for applicable areas of the state.

B. What is Vehicle Inspection and Maintenance?

The 1990 CAA required ozone nonattainment areas classified moderate and higher to have vehicle inspection and maintenance programs to ensure that emission controls on vehicles are properly maintained. CAA sections 182 (b)(4); (c)(3). The Texas motor vehicle I/M program, which is referred to as the Texas Motorist Choice (TMC) Program, was approved by EPA in the Federal Register on November 14, 2001 (66 FR 57261).¹

The State's TMC Program requires that gasoline powered light-duty vehicles, and light and heavy-duty trucks between two and twenty-four years old, that are registered or required to be registered in the I/M program area, including fleets, are subject to annual inspection and testing. Vehicles in Dallas, Tarrant, Collin, Denton, Ellis, Johnson, Kaufman, Parker, and Rockwall counties in the DFW area, and Harris, Galveston, Brazoria, Fort Bend, and

¹ Previous actions taken toward full approval of the TMC Program include: a proposed conditional interim approval on October 3, 1996 (61 FR 51651); an interim final conditional approval on July 11, 1997 (62 FR 37138); a direct final action on April 23, 1999 (64 FR 19910) to remove the conditions; and a final action to approve various revisions on July 25, 2014 (79 FR 43264).

Montgomery in the HGB nonattainment area that are 1995 and older are subject to an ASM-2 tailpipe test. Vehicles in those counties that are 1996 and newer receive the On-Board Diagnostic (OBD) test in place of the tailpipe test.

El Paso, Travis and Williamson County I/M programs are similar and require, in conjunction with the annual safety inspection, for all I/M program vehicles (gasoline powered vehicles from 2 through 24 years old) the administration of the two-speed idle tailpipe test if they are model year 1995 or older, or an OBD test if they are model year 1996 or newer.² Vehicles in all program areas are also currently subject to a gas cap pressure check and an anti-tampering inspection as part of the statewide annual safety inspection.

C. What is the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP)?

The LIRAP is a voluntary program that any county participating in the Texas I/M program may elect to implement to enhance the objectives of the Texas I/M program. The Texas Commission on Environmental Quality (TCEQ) adopted the LIRAP rules on March 27, 2002 at 27 Tex. Reg. 3194. The LIRAP provides funding to assist eligible vehicle owners with emissions-related repairs, retrofits, or the option to retire the vehicle. The LIRAP is funded through a portion of the emissions inspection fee. Vehicle owners who have failed a recent emissions test and who meet the low-income criteria may be eligible. The LIRAP also provides funding for local projects targeted at improving air quality in the counties implementing the LIRAP.

² Travis and Williamson counties were added as part of an Early Action Compact (EAC) for the Austin area. The EAC was a program to encourage permanent proactive measures to prevent nonattainment area designations under the 1997 ozone standard.

Although the LIRAP is not required by the CAA, certain provisions relating to the program fees have been approved into the Texas SIP to allow for full implementation of the State's I/M program.³ These provisions strengthen the SIP.

II. Overview of the June 9 and 11, 2015 State Submittals

A. June 9, 2015 Submittal

On June 9, 2015, the TCEQ submitted SIP revisions to EPA that amended rules related to the implementation of the state's motor vehicle emission I/M program. These revisions are related to replacing the dual windshield sticker system for vehicle inspection and registration with a single vehicle registration insignia sticker and modifying the method used to collect the state portion of the vehicle safety and emissions inspection fee, in addition to minor non-programmatic updates to rule language to correct outdated references and for general clarity.⁴

DPS implemented the changes on March 1, 2015 in all program areas. At present the program areas are: Dallas-Fort Worth area (DFW), Houston-Galveston-Brazoria area (HGB), El Paso area, and the Austin area.

B. June 11, 2015 Submittal

On June 11, 2015, the TCEQ submitted SIP revisions to EPA that amended rules related to the LIRAP. TCEQ amended the state regulations to incorporate a new procedure for counties to opt out of LIRAP and to be released from program obligations, including remittance of the fee to fund the LIRAP. At the time the LIRAP was established, the rules did not specify such a procedure. The revisions define counties participating in, in the process of opting out, and

³ Please see 70 FR 45542, dated August 8, 2005.

⁴ House Bill (HB) 2305 was passed during the 83rd legislative session (2013). This bill eliminated the inspection sticker resulting in a single-sticker system and makes vehicle registration dependent on obtaining a passing vehicle inspection.

not participating in the LIRAP, and details the fees associated with each county category. It also makes other minor non-programmatic updates to rule language for clarity.

The June 11, 2015 revisions to the SIP change the fee and definitions sections of the LIRAP portion of the I/M rules. These revisions are approvable into the SIP as components of the State's fee structure to implement its I/M program.

III. Plan Requirements and Our Evaluation

The revisions we are approving address 30 TAC 114, Control of Air Pollution from Motor Vehicles, Subchapter A: Definitions; and Subchapter C, Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, Division 1: Vehicle Inspection and Maintenance; and Division 3: Early Action Compact Counties. We have prepared a Technical Support Document (TSD) for this action which details our evaluation. Our TSD may be accessed on-line at <http://www.regulations.gov>, Docket No. EPA-R06-OAR-2015-0425.

To determine the approvability of these I/M revisions, we must determine whether these revisions comply with our Federal I/M requirements at 40 CFR part 51, subpart S, and 40 CFR 85.2222 (Federal I/M Rules) and CAA section 182 regarding I/M program requirements.

A. The June 9, 2015 Submittal

The June 9, 2015 SIP narrative discusses how the Program meets the above requirements, and we agree with the State's analysis. See 38 Tex. Reg. 7068; 7074-75. Further explanation of our analysis of the adequacy of this submission with respect to I/M requirements can be found in the TSD for this action.

On June 9, 2015, the State adopted revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A, Definitions, Sections 114.1 and 114.2; and

Subchapter B: Motor Vehicle Anti-Tampering Requirements, Section 114.21,⁵ and Subchapter C, Division 1: Vehicle Inspection and Maintenance, Sections 114.50 – 114.53, and Subchapter C, Division 3: Early Action Compact Counties, Sections 114.82 – 114.84, and 114.87, and corresponding revisions to the SIP. The SIP revisions contain a revised narrative, rules, and supporting documentation as outlined in the requirements of the Federal I/M rules. The SIP revisions will modify the administrative aspects of the existing Texas I/M program in order to implement Texas House Bill 2305, which replaces the current dual inspection and registration sticker system with a single sticker registration sticker and modifies the method used to collect the state’s portion of the vehicle emissions inspections fee. Registrations for non-compliant vehicles would be denied under the single sticker system as under the dual sticker system. 38 Tex. Reg. 7068. We find that the single sticker system is approvable because this change to Texas’s I/M program does not affect the program’s compliance with any federal requirements for I/M.

The I/M rules require the TCEQ to implement the I/M program in conjunction with the Texas DPS. The I/M rules also authorize the collection of the state’s portion of the vehicle emissions inspection fee by the DPS at the time that vehicle emissions inspection station owners purchase safety and emissions inspection windshield stickers.

30 TAC Chapter 114 Sections 114.1 and 114.2 identify and define the terms used in the State’s I/M regulations. Section 114.1(4) is revised to add the phrase “Beginning on the single sticker transition date as defined in this section, the safety inspection certificates will no longer be used” for clarity regarding the single-sticker program. Section 114.1(5) is added to define first vehicle registration. There is no federal definition of the term “first vehicle registration”; but this

⁵ Please see the discussion later in this rulemaking regarding Section 114.21.

definition does not conflict with any federal requirement. Sections 114.1(6) – (21) are renumbered to account for the new subsections and contain other non-substantive changes.

Section 114.1(15), is modified to add new text as follows: “Single sticker transition date - The transition date of the single sticker system is the later of March 1, 2015 or the date that the Texas Department of Motor Vehicles (DMV) and the Texas DPS concurrently implement the single sticker system required by the Texas Transportation Code, Section 502.047.”⁶ This text ensures that the terminology “Single sticker transition date” is well-defined and consistent with the Texas Transportation Code and with federal requirements, as applicable. Additionally, Section 114.1(19) and (20) are modified to add new text that define vehicle registration and vehicle registration insignia sticker terminology.

Section 114.2(1)(A) and (B) are modified to clarify the definitions of accelerated simulation mode (ASM-2) phases, specifically the 50/15 and 25/25 modes. For example, the 25/25 mode tests the vehicle at 25 mile per hour (mph) using 25 percent of the vehicle available horsepower. Section 114.2(12) – Testing Cycle is revised to define the annual testing cycle under the single-sticker program and add the phrase “or beginning on the single sticker transition date, the annual cycle commencing with the first vehicle registration expiration date for which a motor vehicle is subject to a vehicle emissions inspection”. Also, revisions to 114.2(14) – Uncommon Part and addition of 114.2(14)(A)-(C) add additional clarity exceeding remaining time prior to expiration of the safety inspection certificate and the vehicle registration.

These revisions to Sections 114.1 and 114.2 modify the I/M definitions as needed to implement the single-sticker program or are ministerial and add clarification. We therefore find that they are approvable.

⁶ DPS implemented the revisions on March 1, 2015.

Section 114.21 – Anti-tampering Exemptions is also revised. However, at the request of TCEQ,⁷ we are not taking action on Section 114.21, Anti-tampering Exemptions at this time.⁸ We do not need to act on this section to approve the remaining revisions to the I/M program in the June 9 and June 11, 2015 submittals because the Anti-tampering program is not part of the currently approved SIP. Therefore, the revisions to Section 114.21 are separable, meaning that the action we are taking will not result in the approved SIP being more stringent than the State anticipated. *See Bethlehem Steel Corp. v. Gorsuch*, 742 F. 2d 1028 (7th Cir. 1984); *Indiana and Michigan Elec. Co., v. EPA*, 733 F. 2d 489 (7th Cir. 1984).

The SIP submittal contains revisions to Subchapter C, Division 1: Vehicle Inspection and Maintenance. Specifically, Section 114.50 – Vehicle Emissions Inspection Requirements, includes numerous revisions to Section 114.50(a)(1)–(4), (b)(1)–(6), (c) and (d)(1)–(6)⁹ and makes non-substantive changes to other provisions in this section. The revisions implement the single-sticker program, and add rule clarity. Revisions to Section 114.50(d)(2) add the following text: “Beginning on the single sticker transition date, no person may allow or participate in the preparation, duplication, sale, distribution, or false, counterfeit, or stolen vehicle registration insignia stickers, VIRs, VRFs,¹⁰ vehicle emissions repair documentation, or other documents that may be used to circumvent applicable vehicle emissions I/M requirements and to commit an offense specified in Texas Transportation Code, §548.603.” These revisions define rule prohibitions, including activities that are fraudulent. As a result, these revisions strengthen the rule and are approvable.

⁷ Email from TCEQ dated July 18, 2016 requesting EPA postpone review of Section 114.21 at this time. This document is contained in the docket for this rulemaking.

⁸ Section 110(k)(3) of the CAA provides the EPA the authority to approve a SIP submittal in part.

⁹ Please see our TSD for a more detailed listing/discussion of these revisions.

¹⁰ VIRs – Vehicle Inspection Reports; VRFs – Vehicle Repair Forms

The submittal contains revisions to Section 114.53 (a), (a)(1) – (3), (b) – (d), and (d)(1) – (3) that would exempt emission inspection stations from being required to remit the state’s portion of the vehicle emissions inspection fees to the DPS effective March 1, 2015. The revisions also would lower the maximum inspection fee collected by the emissions inspection stations in the DFW, HGB, El Paso and Austin I/M program areas. Effective March 1, 2015, the maximum inspection fee would be lowered by the amount of the state’s portion of the vehicle emissions inspection fee that would be collected by the DMV or county tax assessor-collector at the time of registration. Specifically, revisions to Section 114.53 – Inspection and Maintenance Fees clarify the fees that must be paid, and timing for an emissions inspection of a vehicle at an inspection station. For example, Section 114.53(a)(2) clarifies the timing of when an emission inspection station required to conduct an emission test may collect fees and the amount. Beginning on the single sticker transition date in the DFW and extended DFW program areas, any emissions inspection station required to conduct an emissions test in accordance with Section 114.50(a)(1)(A) or (B) and (2)(A) or (B) of this title must collect a fee not to exceed \$24.50 for each ASM-2 test and \$18.50 for each OBD test. Section 114.53 also further defines the timing and fees for each program area in Texas (i.e., El Paso County and the HGB areas) subject to emissions inspection. New Section 114.53(d)(1) – (3) defines the process, beginning on the single-sticker transition date, for vehicle owners to remit the vehicle emissions inspection fee as part of the annual vehicle registration fee collected by the Texas DMV. These changes to the rule add clarity and further refine the single-sticker program requirements. The revisions are approvable and consistent with federal law.

Revisions to Section 114.82 – Control Requirements include renumbering and the addition of the following text in Section 114.82(a)(2): “Beginning on the single sticker transition

date, all applicable air pollution emission control-related requirements included in the annual vehicle safety inspection requirements administered by DPS as evidenced by a current valid registration insignia sticker affixed to the vehicle windshield or a current valid VIR [vehicle inspection report], or other form of proof authorized by the DPS.” Also, Section 114.84 – Prohibitions includes revisions prohibiting the circumvention of the vehicle emissions I/M requirements and procedures contained in the Austin Area Early Action Compact Ozone SIP. These revisions strengthen the rule, are consistent with the Texas SIP, and are approvable.

Section 114.87 – Inspection and Maintenance Fees, Subsection (a), is revised to include text that states: “In Travis and Williamson counties beginning on the single sticker transition date, any emissions inspection station required to conduct an emissions test in accordance with Section 114.80 of this title must collect a fee not to exceed \$11.50 for each on-board diagnostic and two-speed idle test.” Section 114.87(d) is revised as follows: “Effective on the single sticker transition date as defined in Section 114.1 of this title in Travis and Williamson counties, vehicle owners shall remit \$4.50 for motor vehicles subject to vehicle emissions inspections to the Texas Department of Motor Vehicles or county tax assessor-collector at the time of the annual vehicle registration as part of the vehicle emission inspection fee.” These revisions define the fees applicable in the Austin Area Early Action Compact area under the single-sticker program, are consistent with the Texas SIP, and are approvable.

B. The June 11, 2015 Submittal

The June 11, 2015 SIP narrative discusses how the LIRAP meets the above requirements, and we agree with the State’s analysis. Further explanation of our analysis of the adequacy of this submission with respect to I/M requirements can be found in the TSD for this action. The TCEQ had already finalized the revisions in the June 9, 2015 SIP submittal to EPA described in

Section III.A of this document, prior to finalizing the revisions in the June 11, 2015 SIP submittal to EPA. Thus, the revisions in the June 11, 2015 submittal to EPA already included the changes that we described in Section III.A, and use that language as a starting point.

On June 11, 2015, the State adopted revisions to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter A, Definitions, Section 114.2; Subchapter C, Division 1: Vehicle Inspection and Maintenance, Section 114.53; and Subchapter C, Division 3: Early Action Compact Counties, Sections 114.87, and corresponding revisions to the SIP. The SIP revisions contain a revised narrative, rules, and supporting documentation as outlined in the requirements of the Federal I/M rules.¹¹

Section 114.2 identifies and defines the terms used in Subchapter A for the I/M program. In Section 114.2, LIRAP, the acronym for the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, is replaced with the full program title to be consistent with the title of the referenced subchapter and Texas Register requirements. In Section 114.2 (12) “Related” is changed to “Relating.” The revisions to Section 114.2 are ministerial, and/or add clarification and are approvable.

Section 114.53 details Inspection and Maintenance Fees in nonattainment areas. In Section 114.53(d) “as specified by the following requirements:” is deleted and a period is added after “state”; and in Section 114.53(d)(1) “the following requirements apply” is added after “El Paso County,” and the rest of the paragraph is deleted. These changes are ministerial, add clarification, are necessary for the additions to Section 114.53 described below, and are therefore approvable.

¹¹ The TCEQ published the notice of the proposed revisions to the SIP for the June 11, 2015 submittal on December 5, 2014 (39 Tex. Reg. 9468) and published the final revision on May 15, 2015 (40 Tex. Reg. 2670), finalizing the proposal without revision. In that rulemaking, Texas adopted amendments to other sections that are not submitted as revisions to the SIP.

The submittal contains additional substantive changes to Section 114.53, Inspection and Maintenance Fees, that are later mirrored in Section 114.87. Section 114.53(d)(1),(2), and (3) are amended to more fully describe the LIRAP fee as it relates to the vehicle I/M programs in El Paso County and the DFW and HGB area counties. Subparagraphs are added to these subsections to explain remittance of I/M fees, including the LIRAP fee, for the following categories of counties: a county participating in the LIRAP, a participating county that is in the process of opting out of the LIRAP, and a county that is not participating in the LIRAP and is not subject to the LIRAP fee.

The submittal deletes language from Section 114.53(d)(1) regarding the I/M fees for El Paso County in the event that it passed a resolution to participate in the LIRAP, and replaced it with “(1) In El Paso County, the following requirements apply.”, and added new Sections 114.53(d)(1)(A), (B), and (C) which detail the I/M fees for El Paso County for the three LIRAP county categories outlined above.

The submittal deletes language from Section 114.53(d)(2) regarding the I/M fees for DFW and the extended DFW program areas and replaced it with “(2) In the Dallas-Fort Worth and the extended Dallas-Fort Worth program areas, the following requirements apply.” and added new Sections 114.53(d)(2)(A), (B), and (C) which detail the I/M fees for the DFW and the extended DFW program areas for the three county categories outlined above.

The submittal deletes language from Section 114.53(d)(3) regarding the I/M fees for the HGB program area and replaced it with “(2) In the Houston-Galveston-Brazoria program area, the following requirements apply.” and added new sections 114.53(d)(3)(A), (B), and (C) which detail the I/M fees for HGB program area for the three county categories outlined above.

Section 114.87 details I/M fees in Early Action Compact (EAC) areas. The submittal amends Section 114.87 to apply the same changes for nonattainment counties adopted in Section 114.53 to early action compact counties. Section 114.87(d)(1)(2) and (3) explains remittance of I/M fees, including the LIRAP fee, in a county participating in the LIRAP, a participating county that is in the process of opting out of the LIRAP, and a county that is not participating in the LIRAP and not subject to the LIRAP fee.

Section 114.87(d)(1) includes the description of state LIRAP fees vehicle owners pay during vehicle registration in participating EAC counties. Section 114.87(d)(2) describes the state fees vehicle owners pay during vehicle registration in participating EAC counties that are in the process of opting out of the LIRAP, and includes the LIRAP fee until the effective LIRAP fee termination date, after which state fees do not include the LIRAP fee. Section 114.87(d)(3) describes the state fees vehicle owners pay during vehicle registration in non-participating EAC counties, which does not include the LIRAP fee.

As stated previously, the LIRAP is not required by the CAA, but certain provisions relating to the program and program fees have been approved into the Texas SIP to allow for full implementation of the State's I/M program and strengthen the SIP. The changes in the submittal to Sections 114.53 and 114.87 provide further delineation and clarification regarding which parts of the fees are for LIRAP. We find the more detailed breakdown of the LIRAP fees in counties participating, in the process of opting out, and not participating in the LIRAP, approvable because they do not conflict with any federal requirement, and the LIRAP is voluntary.

C. Section 110(l)

Section 110(l) of the Act provides that a SIP revision must be adopted by a State after reasonable notice and public hearing. Additionally, section 110(l) states that the EPA cannot

approve a SIP revision if that revision would interfere with any applicable requirement regarding attainment, reasonable further progress (RFP) or any other applicable requirement established in the CAA. Our evaluation of the submittals found that the SIP revisions were adopted by the State after reasonable notice and public hearing, and that approval of the revisions would not interfere with any CAA requirement. The revisions related to the single vehicle registration insignia sticker implement legislative changes that may improve the enforcement and compliance aspects of the vehicle emissions inspection and maintenance program. These changes replace the sticker-based enforcement strategy with the preferred registration denial enforcement strategy, which improves the overall effectiveness of the program. This denial enforcement strategy has been in effect for more than one year now. These revisions do not interfere with applicable requirements concerning attainment and reasonable further progress or any other applicable requirement in the CAA.

The revisions that create the new opt-out process for the LIRAP do not interfere with any applicable requirement in the CAA, because the LIRAP is not relied upon to meet any required component of the current SIP. Those counties that continue to participate in the LIRAP contribute to air quality improvements with the related LIRAP emission reductions. Even though fewer counties may be participating in the LIRAP due to the opt-out process, the revisions do enhance the current SIP by providing for additional rule clarification.

IV. Final Action

Pursuant to Sections 110 and 182 of the Act, EPA is approving, through a direct final action, revisions to the Texas SIP that were submitted on June 9, 2015 and June 11, 2015. We are approving revisions to the following sections within Chapter 114 of 30 TAC: 114.1, 114.2, 114.50, 114.53, 114.82 – 84, and 114.87. We evaluated the state's submittals and determined that

they meet the applicable requirements of the CAA. Also, in accordance with CAA section 110(l), the revisions will not interfere with attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA.

EPA is publishing this rule without prior proposal because we view these as non-controversial amendments and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[insert date 60 days after publication in the Federal Register]** without further notice unless we receive relevant adverse comments by **[insert date 30 days after publication in the Federal Register]**. If we receive relevant adverse comments, we will publish a timely withdrawal of this direct final rulemaking in the Federal Register informing the public that the direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comments on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the Texas regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial

review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

Samuel Coleman was designated the Acting Regional Administrator on September 30, 2016, through the order of succession outlined in Regional Order R6-1110.1, a copy of which is included in the docket for this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Dioxide, Volatile organic compounds.

Dated: September 30, 2016.

Samuel Coleman,
Acting Regional Administrator, Region 6.

40 CFR Part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart SS – Texas

2. In § 52.2270:

a. In paragraph (c), the table entitled “EPA Approved Regulations in the Texas SIP” is amended by revising entries for Sections 114.1, 114.2, 114.50, 114.53, 114.82, 114.83, 114.84, and 114.87.

b. In paragraph (e), the second table entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP” is amended by revising the entry for “Vehicle Inspection and Maintenance” and adding an entry at the end of the table for the “Austin Early Action Compact area Vehicle Inspection and Maintenance.”

The revisions read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/Subject	State approval/ Submittal date	EPA approval date	Explanation
* * * * *				
Chapter 114 (Reg 4)—Control of Air Pollution from Motor Vehicles				
Subchapter A-Definitions				
Section 114.1	Definitions	2/12/2014	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	

Section 114.2	Inspection and Maintenance Definitions	4/29/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
Subchapter C-Vehicle Inspection and Maintenance; Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program; and Early Action Compact Counties				
Division 1: Vehicle Inspection and Maintenance				
114.50	Vehicle Emissions Inspection Requirements	2/12/2014	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
114.53	Inspection and Maintenance Fees	4/29/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
Division 3: Early Action Compact Counties				
* * * * *				
114.82	Control Requirements	2/12/2014	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
114.83	Waivers and Extensions	2/12/2014	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
114.84	Prohibitions	2/12/2014	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
114.87	Inspection and Maintenance Fees	4/29/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE
TEXAS SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal/effective date	EPA approval date	Comments
* * * * *				
Vehicle Inspection and Maintenance	Dallas-Fort Worth, El Paso County and Houston-Galveston-Brazoria	6/11/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
Austin Early Action Compact area Vehicle Inspection and Maintenance	Travis and Williamson Counties	6/11/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	

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